AFR

(69)

HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.(L) No.4003 of 2007

Petitioner	:	Bhaiya Lall, S/o. Sobhnath, aged about 52 years, working at Katkona Colliery, S.E.C.L. District Korea (C.G.)
	Versus	
Respondents	1.	South Eastern Coalfields Ltd., Through: The Chairman-Cum-Managing Director, S.E.C.L. Bilaspur, Seepat Road, Distt. Bilaspur (C.G.)
	2.	General Manager, S.E.C.L. Baikunthpur Area, S.E.C.L. District Korea (C.G.)
	3.	Sub Area Manager, Katkona Colliery, S.E.C.L. P.O. Katkona Colliery, District Korea (C.G.)

(Writ Petition under Article 226 of the Constitution of India)

Single Bench: Hon'ble Justice Satish K. Agnihotri

Present : Shri S.N. Prasad, Advocate for the petitioner.

ORDER
(Passed on 12nd July, 2007)

The petitioner is aggrieved by the order dated 24.10.1990 (Annexure P-1) whereby and whereunder the petitioner, who was engaged as Piece Rated Loader, was not converted into Time Rated Job as General Mazdoor, Category I. According to the learned counsel for the petitioner, the petitioner came to know only in the year 2005 that some Piece Rated Loaders have been converted into Time Rated Job as General Mazdoor, Category I. After a delay of 15 years, the petitioner filed an application before the Labour Court in 2006. The Labour Court Under Payment of Wages Act vide order dated

(70)

04.042006 (Annexure P-9) came to the conclusion that under provisions of the Payment of Wages Act, the application for grant of wages/arrers has to be filed within a period of 12 months. The petitioner has not taken any steps for about 15 years and has further not submitted justified reasons for inordinate delay. In view of that, the petition was dismissed on the ground of delay.

2. The Industrial Court in an appeal filed by the petitioner dismissed the appel vide order dated 19.12.2006 (Annexure P-11), upholding the reasons and order passed by the authority under the Payment of Wages Act.

3. The petitioner has filed the present petition without furnishing justifiable reasons for such unexplained inordinate long delay. I have not found any irregularity, perversity or jurisdictional error in the orders passed by the Court below.

4. This petition has been filed after a long inordinate and unexplained delay of fifteen years. The petitioner has not been able to produce or submit any reason for condonation of such a long delay in filing this petition.

5. It is well settled that High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic as the belated approach may have the effect of inflicting not only hardship as inconvenience but also injustice on third parties.

6. The Supreme Court in **P.S. Sadasivaswamy Vs. State of Tamil Nadu**[1] observed as under:

> "It is not that there is any period of limitation for the Courts to exercise their powers under Article 226, nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters."

7. The Supreme Court in **State of M.P. & others Vs. Nandlal Jaiswal and others**[2] further observed as under:

> "Now, it is well settled that the power of the High Court to issue an appropriate writ under Article 226 of the Constitution is discretionary and the High Court in the exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner in filing a writ petition and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction. The evolution of this rule of laches or delay is premised upon a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy under the writ jurisdiction because it is likely to cause confusion and public inconvenience and bring in its train new injustices. The rights of third parties may intervene and if the writ jurisdiction is exercised on a writ petition filed after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. When the writ jurisdiction of the High Court is invoked, unexplained delay coupled with the creation of third party rights in the meanwhile is an important factor which always weighs with the High Court in deciding whether or not to exercise such jurisdiction. We do not think it necessary to burden this judgment with

---

[1] AIR 1974 SC 2271
[2] (1986) 4 SCC 566

> reference to various decisions of this Court where it has been emphasized time and again that where there is inordinate and unexplained delay and third party rights are created in the intervening period, the High Court would decline to interfere, even if the State action complained of is unconstitutional or illegal."

8. The Supreme Court in **Burn Standard Co. Ltd. & others Vs. Dinabandhu Majumdar & another**[3] also observed as under:

> "The very conduct of non-raising of an objection in the matter by the employee, in our view, should be a sufficient reason for the High Court, not to entertain such applications on grounds of acquiescence, undue delay and laches."

9. The Supreme Court in **Karnataka Power Corporation Ltd. through its Chairman & Managing Director & another Vs. K. Thangappan & another**[4] observed as under:

> "Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in Durga Prasad V. Chief Controller of Imports and Exports. Of course, the discretion has to be exercised judicially and reasonably."

10. In the present case, the cause of action arose on 24.10.1990, when the communication was sent by the State Government to the authorities for grant of revised pay-scale. The petitioner has not taken any steps ever since till this

---

[3] (1995) 4 SCC 172
[4] (2006) 4 SCC 322

(73)

petition was filed in 11.04.2007 and remained tardy and indolent. This belated approach would certainly cause hardship and inconvenience to other side.

11. As a result, for the aforesaid reasons, the petition is dismissed summarily.

Sd/-
Satish K. Agnihotri
Judge

Indu